

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Wahluke Produce, Inc.,

NO. C 08-04428 JW

Plaintiff,

**ORDER TO SHOW CAUSE RE:
DISMISSAL**

v.

Coyuque Produce, et al.,

Defendants.

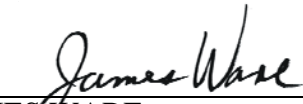
Plaintiff filed this action on September 23, 2008. (See Docket Item No. 1.) Plaintiff filed a Case Management Statement on April 3, 2009 representing that Defendants have been served, but have failed to appear. (See Docket Item No. 4.) However, no proof of service has been filed in this case. Thus, the Court cannot determine whether Defendants have been served in accordance with Fed. R. Civ. P. 4(m).

Accordingly, the Court VACATES the **April 13, 2009** Case Management Conference and ORDERS Plaintiff to appear in Courtroom No. 8, 4th Floor, United States District Court, 280 South First Street, San Jose, California on **May 4, 2009 at 9:00 a.m.** to show cause, if any, by actual appearance in Court, and by certification filed with the Court at least ten (10) days prior to appearance date, why this case should not be dismissed for failure to timely serve Defendants. The certificate shall set forth in factual summary the reason Plaintiff has failed to file a proof of service in this case and the steps Plaintiff is taking, if any, to pursue the action.

1 If Plaintiff fails to file the certification on or before **April 24, 2009**, the May 4, 2009 hearing
2 will be vacated automatically and the case will be dismissed for lack of prosecution pursuant to Rule
3 41(b) of the Federal Rule of Civil Procedure.

4 Failure to comply with any part of this Order will be deemed sufficient grounds to dismiss
5 this action.

6
7 Dated: April 8, 2009



JAMES WARE
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Marion I Quesenbery marion@rjlaw.com
3 Randal Jason Read jason@rjlaw.com

4 **Dated: April 8, 2009**

Richard W. Wieking, Clerk

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6 **By: /s/ JW Chambers**
7 **Elizabeth Garcia**
8 **Courtroom Deputy**
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